



May 21, 1999

Ms. Tracy B. Calabrese  
Assistant City Attorney  
City of Houston  
Legal Department  
P.O. Box 1562  
Houston, Texas 77251-1562

OR99-1420

Dear Ms. Calabrese:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 124315.

The City of Houston (the "city") received an open records request for "all documents including citations, violations or reports on Ware Electro Plating located at 630 Boyles . . . in your possession and control from 1980 to the present." You state that the city police department will release to the requestor "citations and responsive affidavits and search warrants." You seek to withhold all remaining responsive records pursuant to section 552.108 of the Government Code.

Section 552.108(a)(1) of the Government Code excepts from required public disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[s.]" You have informed us that the records at issue pertain to pending criminal investigation. We therefore conclude that you have met your burden of establishing that the release of the requested information could interfere with law enforcement. The city therefore may withhold the requested records at this time pursuant to section 552.108(a)(1), with the following exception.<sup>1</sup>

The submitted documents include an "Agreed Order" issued by the Texas Natural Resource Conservation Commission (the "commission"). The order and the attachments which are incorporated into the order are made public by statute. Gov't Code § 2001.004 (state agency

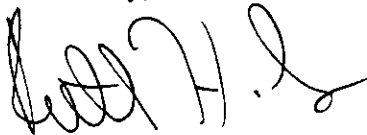
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<sup>1</sup>We note that although section 552.108 does not except from required public disclosure "basic information about an arrested person, an arrest, or a crime, Gov't Code § 552.108(c), "this basic information" is contained in the search warrant affidavit and citations released by the city.

shall make available for public inspection all final orders, decisions, and opinions); *see also* Gov't Code § 2003.047(i)(3) (commission subject to Administrative Procedure Act). Information specifically made public by statute may not be withheld from the public by any of the exceptions to public disclosure. *See, e.g.*, Open Records Decision Nos. 544 (1990), 378 (1983), 161 (1977), 146 (1976). Accordingly, we conclude that the city must release the Agreed Order, including attachments.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ruth H. Soucy', with a stylized flourish at the end.

Ruth H. Soucy  
Assistant Attorney General  
Open Records Division

RHS/RWP/eaf

Ref.: ID# 124315

encl. Submitted documents

cc: Ms. Elizabeth Hawkins  
O'Quinn & Laminak  
2300 Lyric Centre Building  
440 Louisiana  
Houston, Texas 77002  
(w/o enclosures)